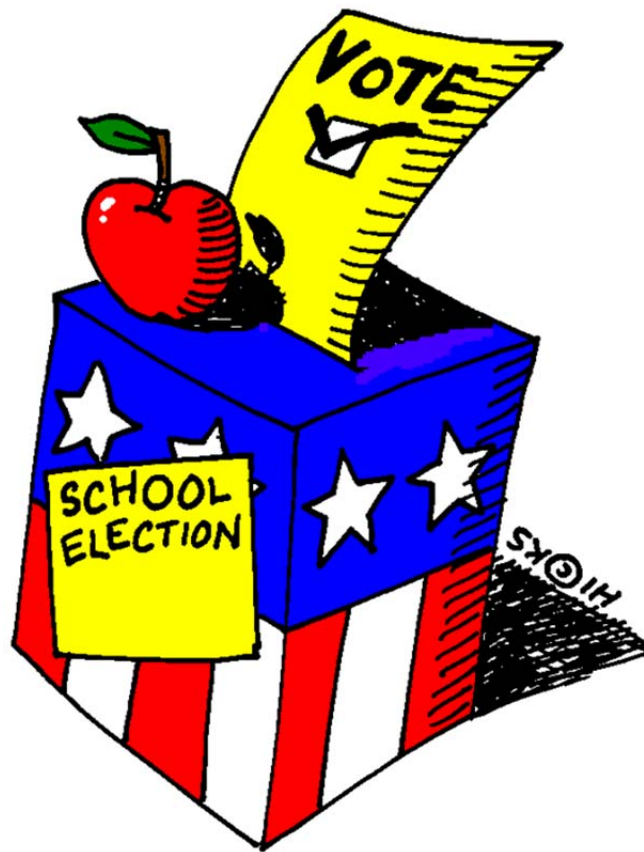


# SCHOOL ELECTION HANDBOOK

**Montana Association of School Business Officials  
Montana Office of Public Instruction  
Montana Secretary of State**



*2013-2014*

Last Revised: December 2013

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NOTE: FORMS HAVE BEEN REMOVED FROM THE MANUAL AND ARE AVAILABLE SEPARATELY ON THE MASBO AND OPI WEBSITES.

<http://www.masbo.com/publications.html>

[http://opi.mt.gov/Finance&Grants/schoolfinance/Index.html#gpm1\\_7](http://opi.mt.gov/Finance&Grants/schoolfinance/Index.html#gpm1_7)

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## **PURPOSE**

This School Election Handbook is intended to assist the election administrator of school elections in the administration and operation of school elections.

## **Other Resources for Election Information**

Election Judges' Handbook

Published by the Montana Secretary of State – Elections Bureau

<http://sos.mt.gov/Elections/Officials/index.asp>

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## **SECTION I: INTRODUCTION TO SCHOOL ELECTIONS**

### **What is a school election?**

A school election is an election conducted by a school district to elect trustees, authorize additional taxation, for the issuance of bonds, or for voting on any other proposition presented to the voters in accordance with law. [20-20-101](#), MCA

### **When is a school election held?**

Regular school elections are held the first Tuesday after the first Monday of May of each year. Trustee elections must be held on the regular school Election Day, except in the event of an “unforeseen emergency”. General Fund Levy elections must be held on the regular school Election Day, except in years in which the legislature meets in regular or special session that affects school funding. In this case the deadline for the election is August 1<sup>st</sup>. [20-9-353](#) and [20-20-105](#), MCA

### **Can school elections be held on a different date?**

A special election is any election other than a statutorily scheduled primary or general election. Districts may hold special elections for any purpose, and may hold them on the same day as a regular election. For school election purposes, the school board of trustees must call a special election if one is desired. [20-20-105 \(2\)](#), MCA

### **Who is in charge of a school election?**

The clerk of the school district is the election administrator of all school district elections under most circumstances. However, by June 1 of the year preceding the election, the board of trustees may request the county election administrator (usually the county clerk and recorder) to conduct the school district election(s). If the county election administrator accepts the responsibility, the county election administrator will conduct the school elections at district expense. [13-1-101](#), [20-20-401](#) and [20-20-417](#) MCA

## **SECTION II: CANDIDATES FOR TRUSTEE**

### **Who may run for office?**

There are restrictions on who may **hold** office. Individuals employed in any capacity by a district may not hold a trustee position in that district. However, relatives of school or county employees may seek and hold a school office. An individual may not run for more than one public office at the same time.

A trustee candidate is required to be a registered voter at the time the nomination petition is filed with the election administrator. [20-9-204](#) and [20-3-305](#), MCA.

## **What are the qualifications for school trustee?**

A trustee must: 1) be qualified to vote in a district; and 2) be a resident of the school district (or in a single-member district, a resident of the trustee district for at least one year).

"Qualified to vote" means the person must: 1) be at least 18 years old; 2) be a resident of the state and county for at least 30 days; and 3) A United States citizen. The person must not be: 1) a convicted felon currently serving a sentence in a penal institution; or 2) determined to be of unsound mind by a court of law. [13-1-111](#), [20-3-305](#) and [20-3-338](#), MCA and [Article IV, Sec. 4, Montana Constitution](#)

## **How many positions are open for trustee and what are the terms?**

### **Elementary Districts:**

The number of trustees to be elected depends on the size of the school district. For elementary districts, first-class districts (those with a population of 6,500 or more) have seven trustees; second-class districts (with a population greater than 1,000 but less than 6,500) have five trustees, and third-class districts (with a population of less than 1,000) have three trustees. Contact your county superintendent to determine your district's classification. A second-class district may increase the number of its trustees to seven, if the board of trustees votes to do so, and publishes its actions prior to January 1 in the year of the trustee election. Ten or more qualified elections may petition to reduce the number of trustees from seven to five. A third-class district may increase the number of its trustees to five, if the board of trustees votes to do so, and publishes its actions prior to January 1 in the year of the trustee election. Ten or more qualified electors may petition the trustees to reduce the size of the board from five to three members. [20-3-341](#) and [20-6-201](#), MCA

### **High School Districts:**

High school districts have the same number of trustees as the elementary district in which the high school building is located (if more than one elementary district where the high school is located, the number of trustees is same as the elementary first constructed). County high schools have seven trustee positions. Additional trustee positions may be created upon resolution from the elementary districts without representation or by petition of the electors to the county superintendent. [20-3-351](#), [20-3-352](#) and [20-3-354](#), MCA.

## **How are candidates placed on the ballot?**

Candidates for trustee in elementary first-class districts must file a Petition of Nomination, signed by 20 voters, and an Oath of Candidacy. For candidates in other school districts, including high school districts, a petition requires just five voters' signatures. The petition must clearly identify the candidate and specify which position is being sought (three-year term, for example). The Petition and Oath must be

filed with the election administrator no later than 40 days before the election. [20-3-305](#) and [20-3-344](#), MCA

The county election administrator must review all the signatures on the Nomination Petition to ensure that the signatures are those of qualified electors. It is also advisable to check all of the signatures against the voters' signatures on the voter registration cards. The signature on the petition sheet must be **substantially the same**, but does not have to be identical, to the signature on the voter registration card. For example, if a voter signs with a first and last name, but is registered with a first and last name and middle initial, the signature can still be valid. [13-27-103](#), MCA

Candidates are encouraged to obtain more than the minimum number of signatures required, in case any of the voters signing the petition are disqualified. Signatures may be added to the petition until the filing deadline, but not after.

All candidates that submit a petition prior to the filing deadline (not less than 40 days before the election) will have the candidate's name placed on the ballot, unless a written statement of withdrawal is submitted not less than 38 days before the election. [20-3-305](#), MCA

### **May trustees run as write-in candidates? In what cases do write-in votes count?**

Anyone may run as a write-in candidate, and voters may write-in whomever they please. However, there are some circumstances in which votes *are not counted* for a write-in candidate.

Write-in candidates must file a Declaration of Intent for Write-in Candidates with the election administrator in order to ensure that their votes will be counted. When a county election administrator is conducting the election for a school district, the school district clerk or school district office that receives the Declaration of Intent shall notify the county election administrator of the filing. Votes are *always* counted for candidates who filed in time to appear on the ballot **OR** for write-in candidates who have filed a Declaration of Intent at least 26 days before the election.

Additionally, votes for undeclared write-in candidates (candidates who did not file a Declaration of Intent) will count if:

1. The election is held,
2. The candidate receiving votes is qualified for the office, and
3. No other candidate has filed a Nomination Petition or a Declaration of Intent.

[13-10-211](#), MCA

## How are candidates written in?

Candidates may have their names written in on the ballot or may prepare sticker labels to be used on the ballot. Write-in candidates are responsible for distributing the stickers, but the stickers (like any other candidate campaign material) may not be distributed at the polling place. Names of write-in candidates should not be posted at the polling place and should not appear "written in" on sample ballots.

Election judges may respond to voter inquiries about who has filed as a write-in candidate, if asked. [13-35-211](#), MCA

Effective October 1, 2009, when a candidate's name is written in, or if a sticker is used, the voter must still *manually mark* the oval, box, or other designated voting area, even if the sticker has a preprinted X or other mark in front of the candidate's name. To avoid voter confusion, only the candidate's name and position sought should be printed on the sticker.

When a candidate's name is written in, a misspelled name or part of the candidate's name may be counted only if the name written in identifies the candidate by one of the designations filed in the candidate's Declaration of Intent. [13-15-206\(5\)](#), [13-10-211](#) and [13-13-117](#), MCA



<b>WRITE-IN</b>		
The chart below illustrates when write-in votes may or may not be counted. (Law does not apply to precinct committee people or federal/military ballots)		
<b>REGULAR CANDIDATE</b>	<b>WRITE-IN CANDIDATES</b>	
Always count all votes cast for any candidate who filed by the deadline and appears on the ballot.	Always count all votes cast for any write-in candidate who filed a Declaration of Intent as a Write-in Candidate (not appearing on the ballot).	Count votes for write-in candidates who did NOT file a Declaration of Intent as a write-in candidate (not appearing on the ballot) <b>ONLY</b> if the election is held, the person is qualified for and seeks election to the office, <b>AND</b> no other candidate has filed a Nomination Petition or Declaration of Intent .
<b>EXAMPLES:</b>		
Candidate A appears on the ballot and receives 10 votes – <b>ALL VOTES ARE COUNTED [WINNER]</b>	Candidate B does not appear on the ballot, did file a Declaration of Intent and receives 8 write-in votes – <b>ALL VOTES ARE COUNTED</b>	Candidate C does not appear on the ballot, did NOT file a Declaration of Intent and receives 20 write-in votes – <b>NO VOTES ARE COUNTED</b>
Candidate A appears on the ballot and receives 10 votes – <b>ALL VOTES ARE COUNTED</b>	Candidate B does not appear on the ballot, did file a Declaration of Intent and receives 110 write-in votes – <b>ALL VOTES ARE COUNTED [WINNER]</b>	No one else receives any write-in votes – <b>NO VOTES ARE COUNTED</b>
Candidate A appears on the ballot and receives 2 votes – <b>ALL VOTES ARE COUNTED [WINNER]</b>	<b>NO CANDIDATE</b> filed a Declaration of Intent – <b>NO VOTES ARE COUNTED</b>	Candidate C does not appear on the ballot, did NOT file a Declaration of Intent and receives 25 write-in votes – <b>NO VOTES ARE COUNTED</b>
<b>NO CANDIDATE</b> appears on the ballot – <b>NO VOTES ARE COUNTED</b>	Candidate B does not appear on the ballot, did file a Declaration of Intent and receives 110 write-in votes – <b>All VOTES ARE COUNTED [WINNER]</b>	Candidate C does not appear on the ballot, did NOT file a Declaration of Intent and receives 225 write-in votes – <b>NO VOTES ARE COUNTED</b>
<b>NO CANDIDATE</b> appears on the ballot – <b>NO VOTES ARE COUNTED</b>	<b>NO CANDIDATE</b> filed a Declaration of Intent – <b>NO VOTES ARE COUNTED</b>	<b>ALL VOTES FOR QUALIFIED WRITE-IN CANDIDATES ARE COUNTED <u>IF</u> the election is held. [WINNER]</b>

## **What happens when a candidate withdraws?**

Candidates may withdraw from the election no later than 38 days before the election by submitting a written statement of withdrawal to the clerk of the district that clearly identifies the candidate and the office sought. The statement of withdrawal must be acknowledged by the clerk of the district. [20-3-305](#), MCA

If a candidate withdraws from the election before the last day to file a statement of withdrawal (not less than 38 days before the election) the candidate's name must not be placed on the ballot.

If a candidate fails to withdraw in time (and therefore appears on the ballot), it is possible for that candidate to receive the most votes and be elected. The candidate may change his or her mind and decide to accept the position by filing the required Oath of Office. If the candidate does not wish to hold the position to which he or she was elected, the candidate should not file an Oath of Office. In that case, the remaining trustees should declare the position vacant and fill it by appointment. [20-3-307](#) and [20-3-309](#), MCA

## **SECTION III: BALLOT ISSUES**

### **What types of issues appear on school ballots?**

#### **A. TRUSTEE CANDIDATES**

##### **How often are trustee elections held?**

Trustee elections are held every year as part of the regular school election.

##### **What is the term of office?**

Except for special circumstances, the term of office for trustees is 3 years. [20-3-301](#), MCA

#### **B. LEVY REQUESTS**

##### **How do you determine how much to ask voters to approve?**

The dollar amount to vote is the *increase* in the amount needed for the Over-BASE tax levy from the previous year. This amount can be determined using OPI's General Fund Budget Overview and Worksheets located at: [http://www.opi.mt.gov/Finance&Grants/schoolfinance/Index.html?gpm=1\\_5&pnl=4\\_3](http://www.opi.mt.gov/Finance&Grants/schoolfinance/Index.html?gpm=1_5&pnl=4_3).

**What should the language on a mill levy election ballot look like?**

State law requires certain components be included on the ballot for mill levy elections. In the 2007 legislative session, the durational limit was added to the list of requirements. The following ballot language includes all of the required components and is suggested for general fund mill levy elections. [15-10-425, MCA](#)

“Shall the district be authorized to impose an increase in local taxes to support the general fund in the amount of \$ \_\_\_\_\_ which is approximately \_\_\_\_ mills for the purpose of \_\_\_\_\_? Passage of this proposal will increase the taxes on a home with a market value of \$100,000 by approximately \$ \_\_\_\_\_ and on a home with a market value of \$200,000 by approximately \$ \_\_\_\_\_. The durational limit of the levy is permanent once approved by the voters, assuming the district levies that amount at least once in the next five years.”

**What is a permissive levy?**

A permissive levy is any tax that a government can impose without first obtaining voter approval. The general fund BASE mill levy is one example of a local permissive tax levy. It is calculated by taking the BASE budget and subtracting all non-tax revenue sources that will be available to the district, including state funding, non-levy revenues such as oil and gas production revenues, and fund balance that can be reappropriated to fund the BASE budget next year.

Districts can also impose permissive levies for their transportation, bus depreciation, tuition, retirement, and adult education funds. Consult the School Accounting Manual for further information on these funds, available at the following link. <http://www.opi.mt.gov/pdf/schoolfinance/SAM.pdf>

**C. BOND ISSUES****What are bonds issued for?**

School bonds are issued for purchasing land or buildings, making changes to existing land or buildings, obtaining a water supply, purchasing school buses, providing funds to redeem existing bonds, for the issuance of refunding bonds, financing a judgment against the district (including protested taxes), and funding a debt service reserve account for oil and natural gas revenue bonds or impact aid revenue bonds. [20-9-403, MCA](#)

**How do you determine how much to ask voters to approve?**

The amount a district may request in a bond issue is limited by law. Contact the OPI for assistance in determining the amount that may be requested.

### **How are bond issues passed?**

If a school district bond election is held at a regular school election, or special election called by the trustees, the bond issue is subject to the following:

- a) 40% or more of the qualified electors cast a ballot in the election – the proposition must be approved by a majority of the votes; *or*
- b) More than 30%, but less than 40%, of the qualified electors cast a ballot in the election – the proposition must be approved by 60% or more of the votes; *or*
- c) 30% or less of the qualified electors cast a ballot in the election – the proposition fails.

[20-9-428, MCA](#)

## **D. OTHER ISSUES**

### **What other issues appear on a school ballot?**

Other issues that may appear on the ballot include district consolidation/annexation, creation of a joint district, dissolution of a joint district, county high school unification, opening an approved junior high school (applies to county high school districts only), joint interstate school agreements, specific transfers from one budgeted fund to another. See [SECTION IX: SPECIAL ELECTIONS](#) for more details on these ballot issues.

## **SECTION IV: VOTERS IN SCHOOL ELECTIONS**

### **Who may vote in a school election?**

Any individual who meets the statutory qualifications of [13-1-111, MCA](#) and is a resident of the school district is entitled to vote in a school district election.

The person must be: 1) registered to vote as required by law; 2) at least 18 years of age; 3) a resident of the state and county for at least 30 days before the date of the election; and 4) a United States citizen. Persons who are currently 17 years old, but will be 18 years old on or before Election Day may register to vote by the deadline and will be permitted to vote at the polls on Election Day. If the election is for a single-member district, the person must be a resident of that district. [13-1-111, MCA](#)

The person must not be: 1) a convicted felon currently serving a sentence in a penal institution; or 2) determined to be of unsound mind for purposes of voting by a court of law.

[20-20-301, MCA](#) and [Article IV, Sec. 4, Montana Constitution](#)

Individuals wanting to vote in the school election must register or file a change of address, if registered in another school district, with the county election administrator (usually the clerk and recorder) no later than 30 days before the election. Electors who change residence to a different county 30 days or less before an election may vote in person or by absentee or mail ballot in the precinct and county where previously

registered. [20-20-311](#), [13-2-512](#) and [13-2-514](#), MCA. If an inactive elector reactivates after the ballots are mailed, the elector should be provided with or mailed a ballot. If the elector reactivates after noon on the day before Election Day, the elector must come in to the election administrator's office on Election Day to receive a ballot.

The county election administrator shall cancel the voter registration of any inactivated voter who later fails to vote in two consecutive federal general elections. [13-2-402](#), MCA

### **Are voters in school elections required to show ID before voting?**

The identification requirements of federal and state law will not apply to school elections conducted by school election administrators. If the county conducts the school election on behalf of the school, the election administrator should contact the county attorney for advice on whether identification will be required at that election. [20-20-301](#), MCA

### **What is the deadline for registration in school elections? Is there late registration?**

Registration for school elections closes 30 days prior to Election Day. Late registration does not apply to a school election. [20-20-311](#) and [13-2-304](#), MCA

### **What if a voter cannot make it to the polls on Election Day?**

Voters may vote by absentee ballot. Voters may apply to the election administrator for an absentee ballot prior to the election. Absentee ballots are made available 20 days before the election (30 days before a bond election held at a time other than the regular Election Day). Voters wishing to use absentee ballots must apply for an absentee ballot by noon the day before the election. Absentee ballots must be received before the polls close on Election Day to be counted. According to [13-13-212](#), MCA, if a voter has a sudden health emergency or illness occurring between 5:00 p.m. on the Friday preceding the election and noon on Election Day, the elector may apply for an emergency illness ballot, by phone or in writing, and a ballot must be delivered to the elector by a special board of election judges. [Title 13 Chapter 13 Part 2](#), MCA

### **How does biennial absentee ballot registration work for school district elections?**

Montana law allows electors to request to receive an absentee ballot for each subsequent election (including school elections), provided the elector remains at the same address and remains qualified to vote. Each county will maintain its own list.

The maintenance of a biennial absentee ballot list involves two steps. First, county election administrators must send an address confirmation form to electors on the list in January of every odd-numbered year. Second, clerks must enable electors to join the county's biennial absentee voter list by including an application for placement on the biennial absentee voter list on both the voter registration card and the absentee ballot.

Applications for the biennial absentee list will affect all elections held in the county--not just school elections. As a result, clerks must forward the requests to the county. Contact your county election administrator to determine procedures specific to your county. [13-13-212](#), MCA

In polling place elections, following receipt of the list of biennial absentee electors from the county election administrator, the district should send a complete absentee voter package to the voter. As always, electors who receive an absentee ballot are not permitted to vote in person at an election, except if the elector's absentee or mail ballot was destroyed, lost, spoiled or not received. In this circumstance, the elector must vote a provisional ballot that can be resolved on election night by determining whether or not the absentee or mail ballot has been returned as voted. [13-13-204](#), MCA

In some instances, a district may cancel an election after the county mails out address confirmation forms. The law does not require districts to notify electors on the biennial absentee list of the cancellation; however, districts may want to consider communicating their decision to them. [13-13-212](#) and [13-13-214](#), MCA

### **What is an inactive voter and how do they become reactivated?**

An inactive voter is an elector whose name has been placed on an inactive list due to failing to respond to confirmation mailings after not voting in 2 consecutive federal general elections. To be reactivated, inactive electors must:

1. Appear to vote or request an absentee ballot in any election,
2. Change his or her address with the county election administrator, or
3. Complete a new voter registration form with the county election administrator.

An elector reactivated in accordance with (1) above is a legally registered elector for purposes of the election in which the elector voted. [13-2-222](#), MCA

### **What if a voter believes another voter is unqualified to vote?**

Any voter may challenge another voter on or before Election Day if he or she believes the person is not qualified to vote. Grounds for challenges include: 1) The elector is of unsound mind, as determined by a court; 2) the elector has previously voted in this election; 3) the elector is a convicted felon serving a sentence in a penal institution; 4) the elector is not registered as required by law; 5) the elector is not 18 years of age or older; 6) the elector has not been, for at least 30 days, a resident of the county (or district) in which the elector is offering to vote; 7) the elector is provisionally registered and the status has not been changed to a legally registered voter; or 8) the elector does not meet another requirement provided in the constitution or by law. Challenged voters may cast a regular ballot if the clerk determines that the challenge is insufficient, otherwise they must vote a provisional ballot. [13-13-301](#) and [20-20-303](#), MCA

## **What are provisional ballots and how are they handled?**

Provisional ballots are ballots cast by voters whose eligibility has not been verified in accordance with law. Similarly, provisionally registered electors are individuals whose voter registration application was accepted but whose identification or eligibility has not yet been verified. For provisional ballots cast in person, the elector must:

1. Receive written instructions on provisional voting;
2. Complete a provisional ballot outer envelope confirming eligibility;
3. Provide additional information prove eligibility as requested; *and*
4. Return his or her ballot to the election judge for special handling.

Election administrators receiving provisionally-voted ballots must notify the electors about the process for provisional voting.

If these steps are followed and the voter proves his or her eligibility to the satisfaction of the election judge or election administrator, the voter's ballot must be counted. Electors who cast a provisional ballot have until 5 p.m. on the day following the election to provide the information necessary to verify their eligibility. Delivery of information may be made in person, via fax or email, or by regular mail postmarked the day after the election and received by 3 p.m. on the 6<sup>th</sup> day following the election.

If the election administrator determines that the elector is not eligible to vote, the elector's vote should not be counted. All voters who cast a provisional ballot must be informed as to whether or not their vote counted. If their vote did not count, they must also be given an explanation of why the vote did not count. [13-13-114, 13-13-601 and 13-15-107](#), MCA

## **SECTION V: ELECTION JUDGES**

### **How are election judges obtained?**

The school trustees, or if so requested, the county election administrator, must appoint election judges (at least three judges per polling place) when they issue the call for the election. Often the county election administrator will provide the names of trained and experienced election judges who may be hired. The judges at each polling place choose a clerk of election judges from among themselves. [20-20-203 and 20-20-402](#), MCA.

### **What are the qualifications of and restrictions on election judges?**

Election judges must be registered voters in the county and district in which they serve. In the 2009 Legislative Session, legislation was added requiring that school election judges must meet the training and certification requirements in Title 13. If individuals who have not been trained by the county election administrator are appointed to serve as school election judges, the school clerk should ensure that they receive the

training required in Title 13. No election judge may be a candidate or candidate's spouse, ascendant or descendant, brother or sister of a candidate or candidate's spouse, or the spouse of any of these in an election precinct where the candidate's name appears on the ballot (see chart below). [13-4-107](#) and [20-20-109](#), MCA.

It is not unlawful for an election judge to be a campaign treasurer or manager or a more distant relative of any candidate. However, it is preferable not to use election judges whose role or judgment might be questioned. If such a person must be used as an election judge, it is wise to ensure that the election judge always has witnesses present when handling ballots or other election materials. A sitting trustee may not serve as an election judge, since trustees hire the election judges. [20-9-204](#), MCA

### **Are election judges paid?**

Yes. Judges must be paid *at least* the greater of the state or federal minimum wage rate for the time spent working during an election, and the hours required to attend training. Districts should set up judges as regular employees and deduct the applicable taxes from their paychecks. [20-20-107](#), MCA

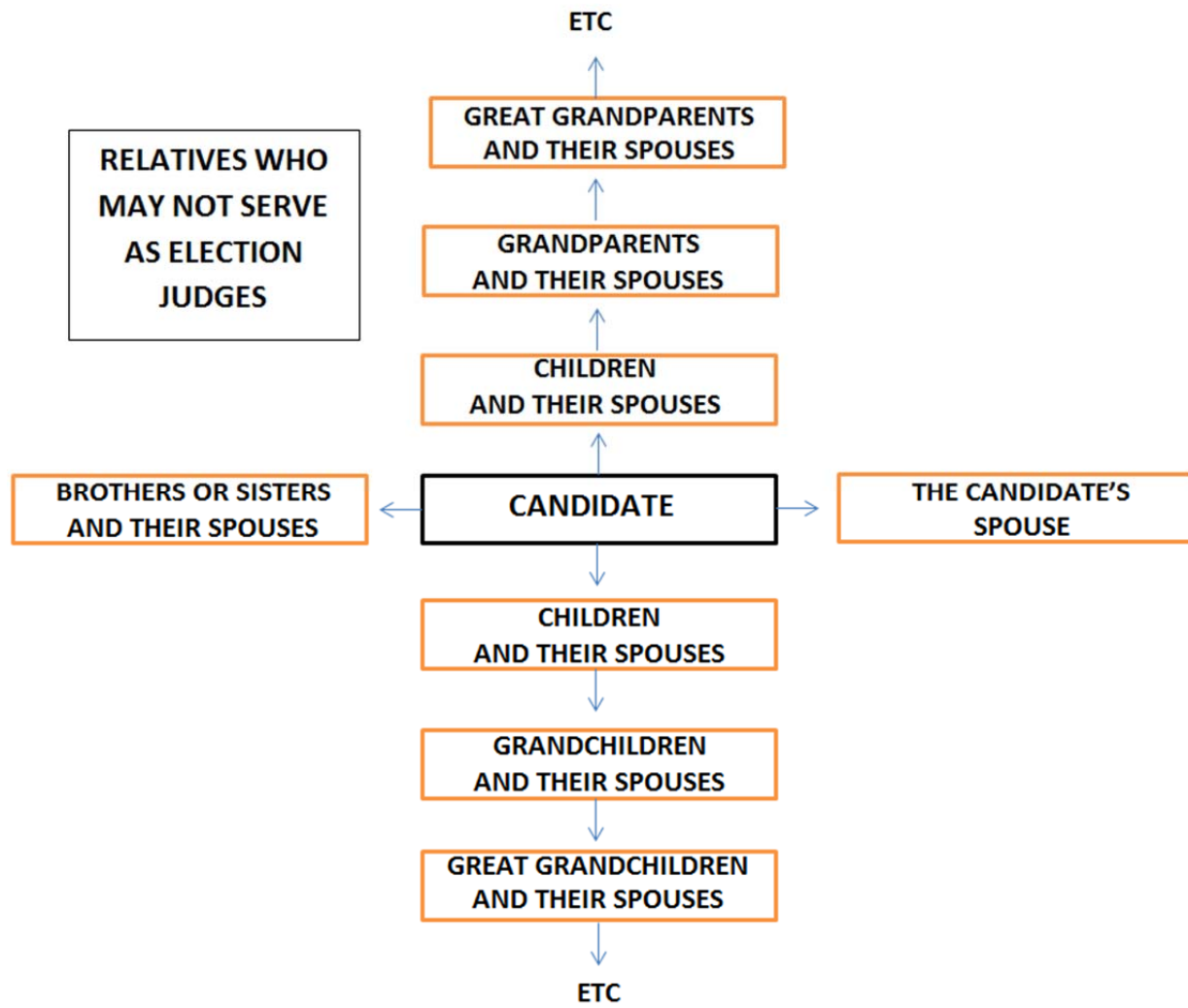
### **Can election judges be excluded from unemployment insurance and TB tests?**

Yes. If the payment they receive is less than \$1,000 in a calendar year, election judges are exempt from unemployment insurance coverage. Judges do not need to take the TB tests generally required of district employees. [13-4-106](#), and [20-20-107](#), MCA and ARM [37.114.1010 \(10\)\(b\)](#)

### **What if an election judge does not appear on Election Day?**

An election cannot be administered without three election judges. If an election judge does not appear on Election Day, the electors present may appoint a qualified elector to act as election judge. Though not prohibited by law, it is not recommended that the election administrator serve as an election judge. [20-20-402](#), MCA





## **SECTION VI: ELECTION PROCEDURES**

### **What is required to certify a ballot?**

“Certifying the ballot” means the ballot must be in its final form to be delivered to the election administrator, if that is a person other than the clerk. Changes to the ballot are not permitted after the ballot has been certified. (at least 25 days before the election). No forms are required to verify the certification.

The election administrator prepares the form of the ballot, complete with proper names of all candidates, official wording of ballot propositions, and levy amounts. The certified ballot is the document used by the printer to prepare the ballots. Components of ballot certification are:

#### **Candidates**

Candidates' names must be listed alphabetically by surname on the ballot. Name rotation is not required for school elections. Names must be printed *exactly* as on the candidate's filing petition. If more than one office is being filled, the office with the longest term should be on the top of the ballot, followed by the next longest term and so on. [13-12-205](#), [20-3-306](#), [20-20-104](#) and [20-20-401](#), MCA

All candidates (including write-in candidates) for trustee positions in first-class districts located in counties with populations of 15,000 or more **OR** in county high school districts with student enrollments of 2,000 or more **AND** contributions received (including personal funds), or expenditures made, exceed \$500, must report their campaign finance activities to the Montana Commissioner of Political Practices (MCP) before their names can appear on the ballot. Contact your county superintendent to determine if these regulations apply to your district. Current candidate forms are available at <http://politicalpractices.mt.gov/default.mcp>. Districts to which these regulations apply should receive notice and a packet of information from the MCP by the end of January. If an affected district does NOT receive this information, the election administrator should contact the MCP at (406) 444-2942. [13-37-206](#), MCA

#### **Ballot propositions**

Propositions must be printed on the ballot with the *exact* wording of the proposition (usually provided by statute). If ballot language is not provided by law or by board resolution, the wording should be developed using language from a similar issue whose language is provided. [20-9-353](#) and [20-9-426](#), MCA

Trustees may propose to adopt an increase in over-BASE levy amount from the previous year. The ballot must include certain components specified by law. Sample ballots are available at:

[http://opi.mt.gov/Finance&Grants/schoolfinance/Index.html?gpm=1\\_7&apm=1\\_6](http://opi.mt.gov/Finance&Grants/schoolfinance/Index.html?gpm=1_7&apm=1_6).

[20-9-353](#) and [15-10-425](#), MCA

### **Bond Issues**

Bond issues must be printed on separate ballots from other propositions. Additionally, whenever bonds for more than one purpose are to be voted at the same election, separate ballots must be prepared for each purpose. Bond election ballots must be substantially the same as that provided in law. [20-9-426](#), MCA

## **OFFICIAL BALLOT SCHOOL DISTRICT BOND ELECTION**

**INSTRUCTIONS TO VOTERS:** Make an X or similar mark in the vacant square before the words "BONDS--YES" if you wish to vote for the bond issue; if you are opposed to the bond issue, make an X or similar mark in the square before the words "BONDS--NO".

Shall the board of trustees be authorized to issue and sell (state type of bonds here: general obligation, oil and natural gas revenue, oil and natural gas revenue for which a tax deficiency is pledged, or impact aid revenue) bonds of this school district in the amount of ..... dollars (\$ .....), payable semiannually, during a period not more than ..... years, for the purpose of ..... (here state the purpose the same way as in the notice of election)?

☐ BONDS -- YES.

☐ BONDS -- NO.

### **How are the ballots printed?**

The election administrator is responsible for providing a sufficient number of ballots for the number of registered voters. Each ballot must be sequentially numbered, by precinct, on a perforated stub. Mail ballots are NOT required to have stubs. Before giving a ballot to a voter, the ballot must be marked with the words "Official Ballot." [13-13-116](#) and [13-19-106](#), MCA.

### **May a district cancel an election after it has been posted?**

After an election is posted, the district may cancel it only:

- 1) In case of a governor-declared emergency. In this event, the trustees must reschedule the election as soon as convenient after the emergency concludes. [20-20-108](#), MCA
- 2) If the number of candidates filing Nomination Petitions or Declarations of Intent to be a write-in candidate are less than or equal to the number of open trustee positions. This provision was amended during the 2009 Legislative session. In this event, trustees may cancel the trustee election and declare the candidates elected by acclamation. If there were no candidates, the trustees should appoint someone pursuant to [20-3-308](#), MCA.

To declare an election by acclamation, trustees and the election administrator must give notice that the election will not be held. This notice must be given no later than 25 days before the election. Because the deadline for write-in

declaration is the 26<sup>th</sup> day before the election, districts have only **ONE DAY** to give this notice. Therefore, districts should plan for the possibility of declaring an election by acclamation. Trustees can schedule a meeting for the evening of the 26<sup>th</sup> day before the election to pass the necessary measure (Notice of Election Cancellation).

Trustees may also pass them in advance by including a provision in the Resolution Calling for an Election, allowing the election administrator to cancel the trustee portion of the election. This is contingent on the number of candidates not exceeding the number of available positions. A district can declare a trustee election by acclamation regardless of whether they run a general fund election. [20-3-313](#) and [13-10-211\(3\)](#), MCA

- 3) If the trustees later determine that a levy proposition is not necessary, the district may cancel a levy election any time before election day--even after the election administrator has certified the ballot. [20-20-401](#) and [13-1-304](#), MCA. If the election is cancelled, either before or after ballots have been ordered by the county election administrator, the school district may incur costs associated with the cancelled election. It is important for the school clerk to work closely with the county election administrator to avoid incurring costs that might otherwise be avoided.

### **What should be done if an election is canceled or not necessary?**

If the trustees determine that a scheduled election is not necessary, and they take action to cancel the election, the trustees must immediately notify the election administrator in writing. If the election is not necessary because of the number of candidates filed, the election administrator would be the one notifying the trustees instead. [13-1-304](#), MCA.

Although not required by law, districts should also consider posting a public notice to correct or amend any previously posted election notices.

### **What polling places should be used?**

If a school election is not being held in conjunction with any other election, the board of trustees may set up polling places in any appropriate place in the district, using the same polling places used for the general election whenever possible. There should be one polling place per district, unless the trustees establish additional places. If more than one polling place is established in the district, the trustees must establish the boundary lines of each place, using the county precinct lines. If the polling places are different from the polling places used in the previous school election, that fact must be included in the trustees' resolution calling for the election. [20-20-203](#), MCA

## **When should the polls be opened and closed?**

The trustees will set the opening of the polls in their resolution. The polls must be open no later than noon, although the polls may be opened as early as 7:00 a.m. The polls must close at 8:00 p.m., or earlier if *all* registered voters have voted. [20-20-106](#), MCA

## **What candidate activities are forbidden or permitted on Election Day?**

The law prohibits electioneering by anyone on Election Day within a polling place or a building where an election is taking place or within 100 feet of a polling place entrance. Further, the law indicates typical kinds of campaign devices (buttons, badges, and the like) that are not permitted at or around the polls on Election Day. Beyond the materials listed in the law, election officials at any polling place should ask for the removal of any item that, in their judgment, may tend to aid the success or defeat of any candidate or issue being voted upon at the election. [13-35-211](#), MCA

Candidates, their spouses, or any of their supporters may remain in a polling place for any length of time they wish for the purpose of monitoring the progress of the election. They may not engage in any activity, however, that could be considered electioneering; nor may they interfere in any other way with the election process.

Any concerns about campaign practice or electioneering should be directed to:

Commissioner of Political Practices  
PO Box 202401  
Helena, MT 59620-2401  
Telephone: (406) 444-2942  
Fax: (406) 444-1643

## **Who counts the ballots?**

The election judges tally the ballots, unless a voting machine or device is used. Election judges should begin the count as soon as the polls close. The count must be open to public observation. Ballots may be counted earlier in the day if a sequestered counting board performs the counting. Upon completion of the tally, election judges should complete election return forms giving the election results. (See Tally Sheet – Trustee Election, Tally Sheet – Proposition, or Judges' Return Sheet - at [http://opi.mt.gov/Finance&Grants/schoolfinance/Index.html#gpm1\\_7](http://opi.mt.gov/Finance&Grants/schoolfinance/Index.html#gpm1_7)). The ballot counting process is open to observers, but if counting begins before the polls close, any observers must be sequestered with the counting board.

One sheet should be posted at the "return" place, and the other sheet should be returned to the election administrator. The voted ballots should be sealed in an envelope marked "ballots voted." Unused ballots should be sealed in a separate envelope. The precinct register, pollbook, tally sheets and list of challenged voters, if any, should be sealed in another envelope and presented, unopened, to the school trustees to be

canvassed. Each election judge should sign his or her name across the seal of all envelopes. [13-15-112](#), [13-15-101](#) and [13-15-207](#), MCA

### **How are absentee ballots prepared for counting?**

The election administrator must compare the signature of the elector or elector's agent on the absentee ballot request or on the elector's voter registration card with the signature on the absentee signature envelope. The clerk should work in conjunction with the county election administrator to ensure that signatures on all absentee signature envelopes are verified before the envelopes are opened.

Absentee ballots may be prepared for counting the day before Election Day pursuant to [13-13-214\(9\)](#), MCA and [ARM 44.3.2204](#). Absentee ballots may not be counted until Election Day.

### **What is canvassing the vote?**

Canvassing means to review the tally sheets, poll books, or registers for any potential error, and then to certify the results. Canvassing does not include opening sealed envelopes of tallied ballots and recounting them. The school trustees must canvass the vote at the first regular or special meeting after the election. Canvassed results must be published once in a newspaper that will give notice to the largest number of people of the district. [20-20-415](#), [20-20-416](#), [13-15-201](#), [13-15-204](#), [13-15-205](#), [13-15-401](#), [13-15-402](#) and [13-15-403](#), MCA

### **How is the election outcome determined? What is required of the newly elected trustees?**

A proposition is approved by a majority of the votes cast in the election. When a proposition passes, the trustees certify the additional amount of financing authorized by the special election on the budget form and submit the form to the county superintendent. A district may choose to levy less than the voted amount, but may not levy more. The county commissioners will levy the necessary number of mills on the taxable value of property within the district to raise the money as authorized by the voters. [20-9-141](#) and [20-9-353](#), MCA

In trustee elections, the individual receiving the highest number of votes for the office is elected to that office. Provisional ballot issues need to be resolved by 5:00 p.m. the day after the election in order for the canvass to be completed. After the canvass is completed and the election is certified, the trustees issue certificates of election (forms available at <http://www.opi.mt.gov/SchoolFinance/Elec HB.html>) designating the terms of office. Trustees must send a copy of the certificate to each candidate and the county superintendent. Certificates specifying the outcome of propositions should be issued within 15 days to the body that called the election.

The newly elected trustees must file the accompanying Oath of Office with the county superintendent within 15 days of receiving the certificate. The oath must be sworn before the county superintendent of schools, or before any official noted in [1-6-101](#),

**MCA.** When the election was called by a trustee resolution, the election results must be published immediately in a newspaper that will give notice to the greatest number of people in the district. [1-6-101](#), [2-16-116](#), [13-1-103](#), [20-3-205\(1\)\(b\)](#), [20-3-307](#) and [20-20-416](#), MCA

### **How long must the clerk or county election administrator retain election materials?**

The voted ballots, detached stubs, un-voted ballots and unused ballots must be kept in their **unopened** packages for 12 months, or until any court case involving that election has been resolved, whichever period is longer. After the end of the retention period, those materials may be destroyed, still in their unopened packages. [13-1-303](#), MCA

The Secretary of State's retention schedule for other election materials is:

- Pollbooks, registers, tally sheets – 4 years
- Election results ("Abstracts") – Permanent (as part of the board's minutes, or in a separate book)
- All other records must be kept at least one year

The complete school district record retention schedule is available at:

[http://sos.mt.gov/Records/forms/local/Local\\_Schedule7.pdf](http://sos.mt.gov/Records/forms/local/Local_Schedule7.pdf)

### **What happens in the case of a tie in a school board election?**

If a tie is certified to the election administrator, a recount is automatically conducted. After a recount, if the result of the election is still a tie, the board of trustees will appoint one of the candidates to fill the vacancy until the next regular school election is held (one year). However, Montana law does not specify how the appointment should be made or which board members should participate in the appointment. For this reason, it is recommended that tied trustee elections--especially ones involving an incumbent candidate--be resolved randomly, such as by drawing lots. Legal precedence for this method exists. [13-16-501](#), MCA This method should minimize political pressures and, accordingly, chances for a lawsuit. [20-20-418](#), [13-16-203](#) and [13-16-507](#), MCA

### **When is a recount appropriate?**

If a candidate or ballot question is defeated by a margin not exceeding one-quarter of one percent of the total votes cast for all the candidates or all the votes cast for or against the ballot question, or 10 votes, whichever is greater, a recount is appropriate. A petition must be filed by the unsuccessful candidate or by at least 10 electors of the jurisdiction. Also, if the board of trustees finds an error that affects the accuracy of the vote totals in the election's returns during a canvass, they may immediately file a petition with the election administrator requesting a recount. Since the recount must be open to the public and the candidates must be given the opportunity to be present, a recount should not be held the same day as the canvass.

### **How is a recount performed?**

The board chair must appoint a 3-member “recount board” from the trustees. If one of the candidates for whom the recount is being conducted is an incumbent, that individual may NOT serve on the recount board. The election administrator then provides the unopened package of ballots to the recount board. Upon receipt, the recount board must open, count, and reseal the ballots. The recount board should then compare the recounted totals to the original count totals and determine a winner. Although the recount must be public, the district may limit the number of individuals present to prevent interference. [20-20-420](#), [13-16-307](#), [13-16-412](#), [13-16-415](#) and [13-16-417](#), MCA.

### **What happens if someone wants to challenge the results of the election?**

Districts should NOT give legal advice to anyone wishing to challenge election results. Instead, refer these individuals to the county attorney. If you receive notice or believe that your election will be challenged, contact your school’s attorney for legal guidance.

## **SECTION VII: SCHOOL ELECTION CALENDAR**

Montana law provides a specific timeline for all elections. The calendar is provided as an appendix to this handbook. The dates provided are either the **first or the final day** to accomplish the task being mentioned. Read the text (or the statute cited) to determine the proper action, if uncertain.

The regular school election is held annually on the first Tuesday after the first Monday in May. Districts **MUST** conduct trustee and general fund budget elections on this day, except as provided in [20-9-353](#), MCA. Other issues requiring voter approval can be presented at this election or on another date specified by the board of trustees. [SECTION IX: SPECIAL ELECTIONS](#) of this handbook contains more detailed information on this topic. [20-3-304](#) and [20-20-105](#), MCA

### **What happens when a deadline date falls on a weekend or holiday?**

The deadline date can legally be extended to the next regular business day unless the deadline is phrased "No later than the \_\_\_\_\_ day before" in which case the deadline must be backed up. [1-1-307](#), MCA



## **SECTION VIII: MAIL BALLOT ELECTIONS**

### **When may a mail ballot election be held?**

A mail ballot election may be the best option when seeking to improve turnout. Use of the mail ballot procedure is entirely optional and within the discretion of the affected jurisdiction and election administrator. [13-19-101](#), [13-19-104](#), [13-19-106](#), and [13-19-206](#), MCA

### **When may a mail election NOT be conducted?**

A school district may conduct an election by mail ballot except as prohibited by law.

An election by mail ballot is not an option when the election is a regularly scheduled or special election **AND** another election in the political subdivision is taking place at the polls on the same day. [13-19-104](#), MCA

The trustee election held on the regular school Election Day may be held by mail ballot unless another election is being held in the district and *at the polls* the same day as the trustee election.

### **How is a mail ballot election started?**

The election administrator or the school trustees may initiate a mail ballot election. The trustees may ask the election administrator to conduct a mail ballot election by passing a resolution, at least 70 days before the election. The election administrator may choose to hold or not hold an election by mail. Once the election administrator decides to conduct a mail ballot election, a written plan and timetable (see *Prescribed Written Plan for Mail Ballot Elections*) must be completed and submitted to the Secretary of State so that it is **received** at least 60 days prior to the election for approval. [13-19-201](#), [13-19-202](#), [13-19-203](#), [13-19-204](#) and [13-19-205](#), MCA

### **Is a mail ballot election conducted any differently than a regular election?**

Mail ballot elections are conducted under regular election law. Obviously, there are a number of steps needed for a regular election (using polls and regular election judges, for example) that are not needed for a mail ballot election. Similarly, there are some additional provisions for conducting mail ballot elections that are not needed for regular elections.

For instruction, an election administrator should thoroughly read [Chapter 19 of Title 13](#), and the Administrative Rules of Montana (ARM) dealing with mail ballot elections ([ARM 44.9.101 through 44.9.405](#)). Additional assistance is available from the Secretary of State Elections and Government Services Division.

## **How does the election administrator prepare for a mail election?**

Election administrators begin the process for a mail election by preparing a written plan, including a timetable and instructions, for the conduct of the election and submitting it to the secretary of state so that it is **received** in their office at least 60 days prior to the date set for the election. The election administrator may amend the plan any time prior to the 35th day before Election Day by notifying the secretary of state in writing of any changes. Within five days of receiving the plan, and as soon as possible after receiving any amendments, the secretary of state shall approve, disapprove or recommend changes to the plan or amendments.

When the written plan has been approved, the election administrator shall proceed to conduct the election according to the approved plan. [13-19-205](#), MCA

## **What are the procedures involved with a mail ballot election?**

Official ballots must be prepared and all other initial procedures followed as otherwise provided by law and administrative rule, except that mail ballots are not required to have stubs. An official ballot must be mailed to every active qualified elector and provisionally registered elector of the political subdivision conducting the election. Schools do not need to send ballots to inactive electors unless the reactivating elector specifically requests one.

The elector shall mark the ballot at home and place it in a secrecy envelope. The elector shall then place the secrecy envelope containing his/her ballot in a signature envelope and shall return it by mail or deliver it to a place of deposit designated by the election administrator so that the ballot is received prior to 8:00 p.m. on Election Day.

Once returned, election officials shall first qualify the submitted ballot by examining the signature envelope to determine whether it was submitted by a qualified elector who has not previously voted, and shall verify the signature. If the ballot so qualifies and is otherwise valid, officials shall then open the signature envelope and remove the secrecy envelope, which is then voted by depositing it, unopened, into an official ballot box.

Voted ballots must be counted and canvassed as otherwise provided by law. Ballots may be counted before the polls close, if done by a sequestered counting board. [13-19-106](#), MCA. The ballot counting process is open to observers, but if counting begins before the polls close, any observers must be sequestered with the counting board. The election administrator must compare the signature of the elector or elector's agent on the absentee ballot request or on the elector's voter registration card with the signature on the mail ballot signature envelope. The clerk should work in conjunction with the county election administrator to ensure that signatures on all mail ballot signature envelopes are verified before the envelopes are opened.

## **What materials are needed to conduct a mail election?**

A single packet of materials must be mailed to every qualified active elector of the political subdivision conducting the election. Each packet will contain:

- An official ballot;
- A secrecy envelope;
- A signature envelope;
- A form prescribed by the secretary of state for the elector to verify the accuracy of the elector's mailing address or notify the election administrator of the elector's correct address; and
- Complete written instructions for voting and returning ballots. [13-19-206](#), MCA
- If the elector is provisionally registered, the packet must contain instructions on what additional item(s) the elector must return in the mail ballot signature envelope in order to verify the elector's identification number and/or eligibility information. [13-19-206](#), MCA

The election administrator must also ensure that each packet is:

- Addressed to a single individual elector at the most current address available from the official registration records;
- Non-forwardable
- Deposited in the United States mail with sufficient prepaid postage for it to be delivered to the elector's address. [13-19-206](#), MCA

## **Do mail ballots meet the requirements for bulk mail?**

Using bulk mail for mail ballot elections may be an additional cost savings for the district. Contact your local post office for further information and instructions.

## **SECTION IX: SPECIAL ELECTIONS**

### **What is a "special election?"**

A special election is any election other than a statutorily scheduled primary or general election. Districts may hold special elections for any purpose and may hold them on the same day as a regular election. For school election purposes, the school board of trustees must call a special election, if one is desired. In contrast, a "regular election" is an election held for the election of public officers throughout the state at times specified by law. The May trustee election is always classified as a "regular" election.

House Bill 206, passed in the 2007 legislative session, requires the ballots for school district elections subject to [15-10-425](#), MCA to state either the amount of money and approximate mills to be raised by the levy or the specific number of mills and the approximate amount of money to be raised. The ballot must also state whether the levy is permanent or the duration of the levy.

## **What are some reasons for holding a special school election?**

### **General Fund Financing**

Although General Fund financing elections meet the definition of a “special election,” General Fund levy elections may be held ONLY on the regular school Election Day, the first Tuesday after the first Monday in May. House Bill 225, passed in the 2007 legislative session allows trustees, in years where the legislature meets that affects school funding, to order an alternate date for the general fund levy election. For complete information on general fund budgeting, including the difference between permissive and voted levies, please refer to the OPI’s website at [http://www.opi.mt.gov/Finance&Grants/schoolfinance/Index.html#gpm1\\_5](http://www.opi.mt.gov/Finance&Grants/schoolfinance/Index.html#gpm1_5) **20-20-105, MCA**

### **Building Reserve**

A successful building reserve election authorizes the school district to levy and accumulate money for a building project or capital improvements. The proposition specifies a certain sum of money to be levied in equal annual amounts over a specific number of years, up to 20 years.

A building reserve levy can be used to finance future construction, equipping, or enlarging of school buildings. It may also be used to purchase land needed for school purposes or for funding school transition costs as provided in **20-9-502(5), MCA**. A levy for school transitions costs for a district opening a new school, closing a school or replacing a school building is limited to a period not to exceed 6 years. A levy for school transition costs for consolidation or annexation is limited to a period not to exceed 3 years. Its use is dependent upon what has been expressed in the trustee resolution calling the election and what is stated in the ballot proposition. The proposition must comply with **15-10-425, MCA**. The changes in HB206 described above do not affect the current ballot requirements for the building reserve levies, which include specific items listed in **20-9-502, MCA**.

To pass, the proposition must be approved by a majority of votes cast in the election. **20-9-502 and 20-9-503, MCA**

### **Technology Fund**

In addition to the state funds received pursuant to **20-9-533(2), MCA**, the trustees of a school district may submit a proposition to the qualified electors of the district to approve an additional levy to fund the purchase of technological equipment and other technology related items. The election must be called and conducted in the manner prescribed by Title 20 for school elections and in the manner prescribed by **15-10-425 and 20-9-533, MCA**.

The 2013 Legislature changed the nature of the technology levy. In addition to the cost of technological equipment, districts may now levy for cloud computing services for technology, infrastructure, platform, software, network, storage, security, data, database, test environment, curriculum, or desktop virtualization purposes, including any

subscription or any license-based or pay-per-use service. Districts no longer depreciate purchased equipment. The length of any new levy passed may not exceed 10 years. If a district seeks a new or additional levy any prior technology levies will be subject to the 10 year limitation, unless the new levy fails (in which case the old levies continue as originally written). [20-9-533](#), MCA

### **District Consolidation/Annexation**

Consolidation occurs when two or more districts join to form a new district.

Annexation occurs when a smaller district attaches to the boundaries of and becomes part of an existing district.

The boards of trustees of each district involved must jointly decide to consolidate or annex a district (with or without the bonded indebtedness of each district involved), then petition the county superintendent through a resolution to order an election. Within 10 days of receipt of the petition, the county superintendent shall order the trustees to call an election. [20-6-423](#), MCA

- If *Consolidation* is approved by the voters in both districts, within 10 days of receipt of the election certificate issued by the district trustees the county superintendent will order consolidation , effective July 1 of the ensuing school fiscal year (except for those time limitations detailed under [20-6-202](#) and [20-6-314](#), MCA). The county superintendent will establish an interim board of trustees for the consolidated district who will serve until the next regular school election. [20-6-423](#), MCA
- If *Annexation* is approved by the voters in both districts, within 10 days of receipt of the election certificate issued by the district trustees the county superintendent will order annexation to occur, effective July 1 of the ensuing school fiscal year. If the annexation was passed with the assumption of bonded indebtedness, the annexation order will include the total taxable valuation of the annexed territory that the annexing district will assume. [20-6-422](#), MCA

### **Creation of a Joint District**

A proposition is passed by a majority of voters in each of two or more districts whose land is contiguous and located in more than one county. The county superintendents of the counties involved will jointly perform the duties required for consolidation and annexation of districts. A hearing process is used when territory is transferred from one district to another or when a new district is created. [20-6-308](#), MCA

### **Dissolution of a Joint District**

A petition must first be signed by a majority of the electors residing in the territory of the joint district and be delivered to the county superintendent to place the proposition on a ballot. The election passes if either: 1) a majority of joint district electors vote in favor of the dissolution during an election for that purpose; or 2) two-thirds of the electors voting at one of the elections held in a county's portion of the joint district vote in favor of the dissolution and the county superintendents involved agree that the

dissolution will not place an undue hardship on any other county's portion. [20-6-704](#), MCA

### **County High School Unification**

A county high school may be unified with an elementary district where the county high school building is located to establish a unified school system under a unified school board. [20-6-312](#), MCA

Following the voters' approval of the unified district, the county superintendent creates the boundaries of the unified high school district. The part of the high school district that is not located within the unified elementary district then can come forward and request representation on the unified board for high school matters. If no request for representation is made, then the board operates with only trustees elected from the area where the elementary district was located. This continues until the county superintendent orders otherwise. [20-3-352](#) and [20-3-353](#), MCA

### **Opening a Junior High School when the High School District Operates a County High School**

When joint boards of trustees, with representatives from the elementary district and the high school district operating a county high school, resolve to open a junior high school they offer the proposition to the voters of the district. If the proposition is approved by a majority of the voters, the trustees apply to the superintendent of public instruction for approval to open a junior high school. [20-6-505](#), MCA

### **Joint Interstate School Agreements**

Interstate school agreements between a district and a contiguous (edging) state for any purpose approved by the trustees of the district and the superintendent of public instruction may be entered into after the contract has been approved by the electors of that district. The wording of the ballot must be in substantially the same form shown in the law. [20-9-705](#), MCA

### **Transfers from a Budgeted Fund to another Budgeted Fund**

Fund transfers between budgeted funds is allowed, except that funds approved by the voters or funds raised by non-voted levies cannot be transferred unless the transfer is directly related to the purposes for which the funds were raised **OR** the transfer is approved by the qualified electors of the district in an election called for the purpose of approving the transfer, in which case the fund may be spent for the purpose approved on the ballot. [20-9-208](#), MCA

### **School Flexibility Fund**

In addition to state flexibility payments under [20-9-542](#), MCA, trustees may ask voters to approve a levy for purposes listed in [20-9-543](#), MCA.

This is an annual levy. [20-9-544](#), MCA

**Is a school election necessary if a school district wants to acquire real property?**

Voter approval is required for school district acquisition of real property unless:

- The electors have already authorized a bonding issue or approved an additional levy for building, purchasing or acquiring a site or building, or
- The district has available funds and the site has been approved by the voters.

No site approval election is required if the site is contiguous to an existing site currently in use for school purposes. A site approval election is also not necessary when the site was specifically identified during an election that approved an additional levy or issued bonds for its purchase. [20-6-603](#) and [20-6-621](#), MCA

## **SECTION X: GLOSSARY OF TERMS AND PROCEDURES**

**Absentee Ballot:** A ballot for qualified electors who choose not to vote at the polls.

**ARM:** Administrative Rules of Montana

**Ballot:** A piece of paper listing one or more candidates and offices sought, and possibly containing ballot issues or propositions, upon which a voter marks the elector's choice either by making a physical mark or using a mechanical device to designate a choice.

**Ballot issue:** A proposal submitted to the electors for their approval or rejection.

**Certificate of Election:** After canvassing votes, the results of the election are formally issued to:

- If a trustee election, to both the trustee and the county superintendent, designating the term of the trustee position that was just elected.
- If an election for proposition, a certificate specifying the outcome to the official or public body which ordered the election.

If the election was ordered by trustee resolution, canvassed votes shall be published immediately in a newspaper that will give notice to the largest number of people in the district.

**County Election Administrator:** County clerk and recorder or individual designated by a county governing body to be responsible for all the election administration duties.

**Elections:** See regular, general, special and primary elections.

**Election Administrator:** School district clerk for school elections that are administered by the local board of trustees. If requested by the district, the county election administrator may be the election administrator for school elections.

**Election by Acclamation:** Declaration by the trustees under [20-3-313, MCA](#) to issue a certificate of election without holding an election. Used when the number of trustee candidates is equal to or less than the number of available trustee positions.

**Election Clerk:** The chief Election Judge – an appointee from among the election judges.

**Election Judge:** A trustee-appointed registered voter.

**Election Oath:** Oath taken by trustees and election judges before assuming their official duties. See Official Election Oath.

**Electors:** Registered voters.



**General Election:** An election held throughout the state every year on the 1st Tuesday after the 1st Monday of November. This election is for the purpose of electing statewide, county and city office holders and considering other ballot issues.

**Issue (or Ballot Issue):** A proposal submitted to the electors for their approval or rejection.

**Mail Ballot Election:** Any election that involves either candidates or ballot issues and is conducted by mail in compliance with the procedure specified in [13-19-102](#) and [13-19-106](#), MCA.

**MCA:** Montana Code Annotated

**Official Election Oath:** Per Montana Constitution, Art. III, Section 3, the oath required for trustees and election judges: "I do solemnly swear (or affirm) that I will support, protect and defend the Constitution of the United States, and the Constitution of the State of Montana, and that I will discharge the duties of my office with fidelity (so help me God)."

**Political Subdivision:** An electoral district of the state, including a school district.

**Polling Site:** The place where a registered voter casts the elector's ballot.

**Precinct:** An election district of a city or town.

**Precinct Register:** An alphabetical list of names and addresses of the registered elector with a space for the signature of the elector and such other information prescribed by the secretary of state.

**Primary Election:** An election held throughout the state to nominate candidates for public office. Held on the first Tuesday after the first Monday in June in even-numbered years or held on the Tuesday following the second Monday in September in odd-numbered years.

**Proposition:** A proposal or ballot issue.

**Provisional ballots:** Ballots cast by voters whose eligibility has not been verified in accordance with law.

**Public Office:** A state, county, municipal, school or other district office that is filled by the electors in an election.

**Regular School Election:** An annual election held on the first Tuesday after the first Monday in May.

**Referendum:** The principle or practice of submitting to popular vote a measure passed on or proposed by a legislative body or by popular initiative.

**Registrar:** The county election administrator and any regularly appointed deputy or assistant election administrator.

**Signature Envelope:** an envelope used for mail ballot elections and absentee ballots that contains a secrecy envelope and ballot designed to:

- allow election officials, upon examination of the outside of the envelope, to determine that the ballot is being submitted by someone who is, in fact, a qualified elector and who has not already voted; and
- allow it to be used in the United States mail.

**Secrecy Envelope:** An envelope used to contain the elector's ballot and that is designed to conceal the elector's vote and to prevent the elector's ballot from being distinguished from the ballots of other electors.


**Special Election:** An election other than a statutorily scheduled primary or general election. A special election can be held at any time, for any purpose provided by law.

**Ward:** A division of a city or town for administrative and representative purposes.

# SCHOOL ELECTIONS CALENDAR 2014

Days From Election	Deadlines	Event (Special Instances Identified in Green)	MCA Citation
No earlier than 135 days, or later than 40 days before	<b>Sunday, December 22 through Thursday, March 27</b>	<b>Trustee candidates file for election.</b> Nomination petition and Oath of Candidacy must be filed with election administrator. No person signing a petition may sign more nomination petitions than there are trustee positions open. <b>NO CANDIDATE MAY APPEAR ON THE BALLOT UNLESS HE OR SHE MEETS THIS DEADLINE.</b>  <i>Candidate must be registered to vote at the time the petition is filed.</i>	<a href="#">13-10-201(6)</a>  <a href="#">20-3-305</a>  <a href="#">20-3-344</a>
Within 5 days of becoming a candidate	<b>Friday, December 27 through Tuesday, April 1</b>	<b>Contact the Montana Commissioner of Political Practices (MCP)</b> office at (406) 444-2942 if you are in (1) a first-class district located in a county with populations of 15,000 or more, OR (2) a county high school district with an enrollment of 2,000 or more. The filing of C-1-A is required within 5 days of becoming a candidate.	<a href="#">13-37-206</a>  <a href="#">13-37-201</a>
At least 70 days before	<b>Tuesday, February 25</b>	<b>Request for a mail ballot election</b> must be sent from trustees to the election administrator. Exception: Even if no request is received, the election administrator could decide to request a mail ballot election.	<a href="#">13-19-202</a>  <a href="#">13-19-203</a>
At least 60 days before	<b>Friday, March 7</b>	<b>Election administrator sends mail ballot election plan/timetable/sample instructions</b> to the Secretary of State's Office so that it is received by this deadline (i.e. fax, mail, or e-mail to SOS office (not post marked)).	<a href="#">13-19-205</a>
At least 40 days before	<b>Thursday, March 27</b>	<b>Trustees call for an election.</b> The trustees must pass a resolution stating: 1) the date of the election; 2) the purpose of the election; 3) the polling site(s) (if changed from previous school election); and 4) the time the polls will open, if before noon. The trustees do NOT have to set levy amounts at this time; however, they must be set in time for the clerk to certify the ballot (not less than 25 days before the election). The resolution must be delivered to the county election administrator at least 35 days before the election, but it need NOT be posted. The trustees must also appoint three election judges per precinct. The resolution should appear in the board minutes. An election may also be called by the county superintendent, county commissioners, board of public education or the trustees of a community college.  <b>Bond Elections are subject to additional requirements (see <a href="#">20-9-422</a>, MCA).</b>	<a href="#">20-20-201</a>  <a href="#">20-20-203</a>  <a href="#">20-9-422</a>
At least 38 days before	<b>Friday, March 28</b>	<b>Last day trustee candidates can withdraw from the election.</b> Any candidate that has already filed for election, but wishes to withdraw their name, may do so by sending a statement of withdrawal to the election administrator.	<a href="#">20-3-305</a>
At least 35 days before	<b>Tuesday, April 1</b>	<b>Last day to file resolutions for school election with county election administrator.</b>	<a href="#">20-20-201(2)</a>
No later than the 30th day before	<b>Friday, April 4</b>	<b>Deadline to notify election judges of appointment.</b>	<a href="#">13-4-102</a>
30 days before	<b>Monday, April 7</b>	<b>Voter registration closes.</b> A voter must register by this deadline to vote in the school election. County election administrator prepares registration list. It is not necessary to publish any notice of closing of voter registration.	<a href="#">20-20-311</a>  <a href="#">20-20-312</a>
30 days before	<b>Monday, April 7</b>	<b>Absentee ballots must be available for bond elections.</b> If the bond election is to be held on a date other than the regular school Election Day in May, ballots must be available 30 days before.	<a href="#">20-9-426</a>

<b>Days From Election</b>	<b>Deadlines</b>	<b>Event (Special Instances Identified in Green)</b>	<b>MCA Citation</b>
Not more than 30 days before	<b>Monday, April 7</b>	<b>Contact your county election administrator</b> for the biennial absentee ballot list. The county election administrator is required to mail an address confirmation form to voters who previously requested an absentee ballot for all elections. The county election administrator sends the confirmation form in January of every even-numbered year (in mail ballot elections, ballots are sent under mail ballot procedures rather than under absentee ballot list procedures).	<a href="#">13-13-212</a>
Not less than 20 days, or more than 30 days before	<b>Sunday April 6 through Wednesday, April 16</b>	<b>Notice of election is posted.</b> The election notice must be published in a newspaper of general circulation in the district AND posted in at least three public places in the district, provided that in incorporated cities and towns at least one notice must be posted in each ward or precinct. Radio or television notice may be used to supplement the notice. The notice must include: 1) the date and polling places of the election; 2) polling place hours; 3) each proposition to be considered by the electorate; 4) the number of trustee positions, if any, subject to election and the length of the terms for those positions; and 5) where and how absentee ballots may be obtained.  If the polling place has changed from the previous school election, that change must be referred to in the notice. If more than one proposition will be considered in the same district, each proposition must be set apart and identified, or placed in separate notices.	<a href="#">20-20-204</a>
No later than 26 days before	<b>Thursday, April 10 (By 5 p.m.)</b>	<b>Deadline for write-in candidate for a trustee position on a school board to file Declaration of Intent</b>	<a href="#">13-10-211(3)</a>
Not less than 25 days before	<b>Friday, April 11</b>	<b>Election by Acclamation and Cancellation of Election - Notice.</b> If the number of candidates filing a nomination petition or filing a declaration of intent to be a write-in candidate is equal to or less than the number of open trustee positions to be elected, the trustees cancel the trustee election. They must then give notice that a trustee election will not be held.  <i>**A trustee election held in single-member or trustee nominating district is considered a separate trustee election for declaring the election by acclamation.</i>	<a href="#">20-3-313</a>
Not less than 25 days before	<b>Friday, April 11</b>	<b>Election administrator certifies ballot.</b> The election administrator prepares the final ballot form, listing all candidates and propositions to be voted upon. The ballot must then be delivered to the election administrator, if other than the clerk. <i>Trustees must pass a resolution stating exact levy amounts by this date in order for the clerk to certify the ballot.</i> This resolution must include the durational limit, if any, on the levy.	<a href="#">20-20-401</a> <a href="#">15-10-425</a>
Not before the 25 <sup>th</sup> day nor later than the 15 <sup>th</sup> day	<b>Friday, April 11 through Monday, April 21</b>	<b>Mail ballots mailed.</b> If mail ballot election is used, all ballots must be mailed on the same day, except that if an inactive elector reactivates after the ballots are mailed, the elector should be provided with or mailed a ballot. If the elector reactivates after noon on the day before election day, the elector must come in on election day to receive a ballot.	<a href="#">13-19-207</a>
At least 20 days before	<b>Wednesday, April 16</b>	<b>Absentee ballots available.</b> The election administrator prepares ballots for absentee voters. Remember to enclose four things in the absentee package. <ul style="list-style-type: none"> <li>• The ballot (with stubs removed)</li> <li>• Instructions for voting and returning the ballot</li> <li>• A secrecy envelope, free of any marks that would identify the voter</li> <li>• A self-addressed, return envelope with affirmation printed on the back of the envelope</li> </ul>	<a href="#">13-13-214</a> <a href="#">20-20-401</a>

Days From Election	Deadlines	Event (Special Instances Identified in Green)	MCA Citation
Day before	<b>Monday, May 5 (By Noon)</b>	<b>Deadline for absentee ballot requests.</b> Voters who wish to vote absentee may request an absentee ballot in writing or in person until noon the day before the election. <i>**Remember to include a section on the absentee ballot application allowing the voter to become part of the biennial absentee list.</i>	<a href="#">13-13-211</a> <a href="#">13-13-214</a>
Day before	<b>Monday, May 5</b>	<b>Deliver certified copy of the lists of registered electors</b> for each polling place to the district by election administrator before the election day. District then delivers list(s) to election judges prior to opening of polls.	<a href="#">20-20-313</a>
Election Day 	<b>Tuesday, May 6</b>	<b>ELECTION DAY.</b> The election administrator must prepare the polling places, printed ballots, ensure election judges are present, and conduct a fair and unbiased election (See Election Procedures).  <b>Notify election judges of the names of write-in candidates</b>	<a href="#">Title 13</a> <a href="#">20-20-105</a> <a href="#">20-20-401</a> <a href="#">20-20-411</a>
Following receipt of the tally sheets from all polls and within 15 days after election	<b>Wednesday, May 21</b>	<b>Trustees canvass the votes, issue certificates of election, and publish results.</b> Trustees review the tally sheets compiled by the election judges to ascertain their accuracy. Recounts are ordered, if necessary. If tally is complete and accurate, trustees issue certificates of election to successful candidates. The canvassed results shall be published immediately in a newspaper that will give notice to the largest number of people in the district.	<a href="#">20-20-415</a> <a href="#">20-20-416</a>
Within 5 days after the official canvas	<b>Monday, May 12 through Monday, May 27</b>	<b>Deadline for filing a petition for recount.</b> When a question submitted to a vote of the people is decided by a margin not exceeding ¼ of 1% of the total votes cast for and against the question, a petition for recount must be filed within 5 days after the official canvas.	<a href="#">13-16-201</a>
Within 15 days after receipt of certificate of election	<b>Wednesday, May 21</b>	<b>Candidate completes and files Oath of Office</b> with the County Superintendent.  <i>**Newly elected trustees may not be seated until the oath is filed. The issuance and the oath may be administered at the organizational meeting (below), but must be completed within 15 days of issuance.</i>	<a href="#">20-3-307</a> <a href="#">20-1-202</a> <a href="#">1-6-101</a>
Within 15 days of election	<b>Wednesday, May 21</b>	<b>Deadline for trustees to hold organizational meeting</b> to elect chair and appoint clerk.	<a href="#">20-3-321</a>
12 days before and 20 days after	<b>Thursday, April 24 through Monday, May 26</b>	<b>Filing Report:</b> Candidates who marked Box "C" on their form C-1-A must file form C-5 with the district clerk and Montana Commissioned of Political Practices.	<a href="#">13-37-226(4)</a>
June 1	<b>Friday, May 30</b>	<b>Deadline for trustees to request county election administrator to conduct school elections for next year.</b> The school district clerk/election administrator is designated the election administrator for school elections. However, the trustees of any district may request the county election administrator (EA) to become the election administrator for school elections. If the county EA accepts, then he/she must perform all the duties the school clerk would have. The school district must assume all costs of the election.	<a href="#">20-20-417</a>

**Special instances are identified with green lettering**

1-1-307, MCA. Postponement of day appointed for an action when it falls on a holiday or Saturday. Whenever any act of a secular nature, other than a work of necessity or mercy, is appointed by law or contract to be performed upon a particular day, which day falls upon a holiday or a Saturday, such act may be performed upon the next business day with the same effect as if it had been performed upon the day appointed.

*If the deadline, as read in statute, is phrased "not later than..." the deadline does not move to a later date but an earlier one.*

**Additional References:**

Sample forms can be found at this address:

[http://www.opi.mt.gov/Finance&Grants/schoolfinance/Index.html#p7GPc1\\_7](http://www.opi.mt.gov/Finance&Grants/schoolfinance/Index.html#p7GPc1_7)

Election Manual: [http://opi.mt.gov/Finance&Grants/schoolfinance/Index.html#p7GPc1\\_7](http://opi.mt.gov/Finance&Grants/schoolfinance/Index.html#p7GPc1_7)

MT Secretary of State's Office: <http://sos.mt.gov/Elections/index.asp>